IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12870 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BABUBHAI D VANIA

Versus

ZONAL MANAGER

Appearance:

1. Special Civil Application No. 12870 of 1993

MR US BRAHMBHATT for Petitioner No. 1-2

MR TUSHAR MEHTA for Respondent No. 1

NOTICE SERVED for Respondent No. 2,4

NOTICE UNSERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 29/03/2004

ORAL JUDGEMENT

The petitioners have preferred Special Civil Application under Article 226 of the Constitution of India for an appropriate writ or order directing the respondent-Bank to refund the amount being surplus amount

of various National Savings Certificates and surplus amount of FDR which were kept as security with the respondent No.2 Bank by contending inter alia that on maturity of the National SAvings Certificates and the FDR certain surplus amount would be there and the respondent Bank is not refunding the same to the petitioner after adjustment of the loan amount.

2. When the present Special Civil Application came up for admission hearing before this Court, this Court admitted the matter on 11.3.1984 and passed an interim relief directing the respondents to submit a statement of accounts in respect of each of the claims made by the petitioners in respect of each of NSC/FDR referred to in the petition and this Court further passed an order that in case anything is found payable to the petitioners on the basis of this statement such amount shall be deposited in this Court within a period of 4 weeks thereafter. This Court also further clarified that such statement shall not refer to any possible or contingent claims of the bank as against the petitioner.

3. In compliance of the interim direction issued by this Court on 11.3.1994, the respondent Bank through their Advocate had filed a Report dated 26th April 1994 pointing out that after adjustment of the amount of all the NSC/FDR on maturity, still an amount of Rs. 10075 is standing to the debit of the petitioner which is yet to be paid by the petitioner to the Bank to clear up his loan account and there is no surplus from the NSC/FDR on maturity of the same. In view of the aforesaid report, which is on record, it is now clear that as there is no surplus amount of National Savings Certificate/FDR mentioned in the Special Civil Application on maturity of the same, the prayer of the petitioner with regard to return of the surplus amount of NSC/FDR cannot be granted. Under the circumstances, the present Special Civil Application is required to be dismissed and is hereby dismissed. Rule is discharged with no order as to costs.

rmr. [M.R. Shah, J.]